

Dear George,

9/19/84

From my own experiences of more than five decades ago I know that reporters have desk problems and I assume that you too do. And you know that in close to two decades I've never asked you anything for myself, not even when I had a book to promote. Well, I'm not asking for anything for myself now, either, but I am asking that you consider and then if necessary consider arguing with your desk about a story the nature of which is indicated in the enclosed copy of what Les wrote and the Post omitted from Jack's column yesterday.

While this whole nasty business was developing I did try to keep you informed. I do not know with what completeness. But I'm caught up in some pretty rotten stuff only because it fell to me to try to defeat precedents that mean just about nothing to me but can be of great consequences to reporters, of which the Post has a number who've used FOIA, to the Post as a corporation and its lawyers when the Post uses FOIA and, in fact to all major corporations who use FOIA and their expensive lawyers.

The precedents are unnecessary and unjustified discovery against an FOIA plaintiff when the Act is clear, "and the burden of proof shall be on the Agency to sustain its action;" assessing costs against the plaintiff by the judge who refuses to let him go up on appeal immediately (and who can blame a judge who entirely ignored the case record before him, John Lewis Smith); This coming only after he was threatened with contempt by the DJ, which he dared to do it; and then assessing his lawyer when he, desiring to appeal, refused to take his lawyer's advice. This in itself is a separate threat against all lawyers whose clients do not follow their advice, as is a client's right if not sometimes obligation.

If it were almost anybody else, almost any other subject, the Post would have summoned some of the indignation it used to express before it got so rich and powerful when an old man who is not in good health is singled out for such abuse by the might of government, by the vindictiveness of those who cannot fault his writing and his prevailing over their corruption in some many cases. Perhaps also because he has been a dependable and accurate source, as I am sure you'll agree, for reporters. And I'm sure you'll agree unselfishly and sometimes at his own cost.

And ~~add~~ before the papers became what they have become, this would have been a natural. ~~add~~ to it the fact that, as you heard Judge Gesell say and did report, if it hadn't been for my willingness to persist against all that dishonesty and corruption we would not know FOIA as we know it, another motive they have.

As I say, without the precedent that can be so hurtful to others and to the country, I'd not have invested the time and effort, would just have forgotten the whole thing and not have taken that time from writing I'll never be able to complete. The initial assessment would have ~~been~~ ^{taken} about three months of my Social Security and I'd have been better off personally if I'd just capitulated, as I could have before there was any assessment and it would have cost me nothing at all.

The threat to lawyers is even greater, as I think I showed you long ago with a copy of a District decision, the Stanton case. Those rotten bastards, out to get Jim Lesar, too, whipsawed him. If he did as they demanded he could lose his license, ~~and when~~ ^{when} he didn't they ~~asked~~ ^{shook} him with a cash assessment. And the truly outrageous part of that is that it was when the case record was clear, he tried to lean on me to accept what he considered a lesser evil and I refused. Either way they had him, unless we can turn it around on appeal.

Meanwhile, in this FOIA case, the record is clear: after more than six years they have not yet made and attested to the initial searches required by FOIA and regulation.

This may or may not be precedental in the form in which it is, but I've had enough experience with these to me genuinely subversive people to know that they'll at least try. And in any combination of these factors, what really will remain of FOIA, not even counting ~~what will~~ what will amount to a total exemption for the CIA and all its past and future outrages against any form of decency?

Nobody has to take my word for anything. The whole rotten thing is in court records, and they are immune.

When Les read what he'd written, and I think it was a little more, to me to check accuracy, he was awaiting a callback from the government lawyer who drafted the thing. There is no word of this in what appeared in the local paper. So, I guess there was no return call or what she said was useless or Jack didn't use it.

Meanwhile, with all the leaks against Barry, which he lays at the feet of the USA for DC, his name is on these papers, all of them, and that gives him, too, some responsibility.

I wish people like your desk and Bradley could remember what Pastor Niemueueller said when it was all over and too late, first there was **** and I said nothing, etc., until it got to him, and he went into the concentration camp. This is not going to be any real hurt to me whatever happens. I'll tighten the belt for a while and it will pass, at worst, no big deal. Buf boy! what it can mean to those who are silent!

And this without regard to how widespread official corruption is in other litigation.

Thanks if you try, and best wishes,

Harold

P.S. Perhaps what I refer to at the beginning will amuse you. I was about 18-19 and working for the Wilmington Morning News, then owned by Pierre DuPont. I turned in a rather good feature and when the city editor took it off the spike he called me over. "Son, he said, Mr. Dupont wouldn't like this." (I was "son" as distinguished from the copy boy who was "boy" and perhaps older than I.) When that kindly, fatherly man saw my surprise and disappointment he made a suggestion that made me a syndicated Sunday Supplement writer, for the old Philadelphia Ledger, which syndicated a Sunday Supplement. I did as this nice guy suggested, went up to Philadelphia with the story hole in it and all, they liked it, paid me more than I ~~had~~ got in a week on the News, and took the other stories I wrote later, all yielding more than a week's pay. And stories Mr. Dupont would not have liked. I remember the editor of that supplement, who also was a nice guy (and all editors were not nice to kids), because his real name was Major Minor.